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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/735,596	12/12/2003	Mark X. Hayden	48972.830001.US0	1748

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EXAMINER

CHAMBERS, MICHAEL S

ART UNIT	PAPER NUMBER
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3711

DATE MAILED: 04/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/735,596

Applicant(s)

HAYDEN ET AL.

Examiner

Mike Chambers

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 November 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15,22-25,27-31,33 and 34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15,22-25,27-31,33 and 34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 6-15, and 22-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lewis (4739994) in view of Jackson (0545022). Lewis discloses the elements of claim 1, however it fails to clearly disclose the use of a tapered portion below the head. Jackson discloses the use of a tapered portion is old in the shaft art (fig 3). It would have been obvious to one of ordinary skill in the art at the time of the invention to have employed the tapered portion of Jackson with the apparatus of Lewis in order to provide a lighter lacrosse head.

As to claim 2: Jackson discloses a tapered head (fig 3).

As to claim 3: Jackson discloses a second outwardly tapered head (fig 3). The specification provides no unexpected or surprising results in using a second taper. It would have been obvious to one of ordinary skill in the art to have included a second taper in order to permit the handle to be easily reused if the first taper is damaged.

As to claim 4: Lewis discloses an octagonal shape (fig 3). The specification provides no unexpected or surprising results in using a non-protruding octagon cross-sectional shape. This is considered a design choice.

As to claim 6: Lewis discloses graphite (4:42-45).

As to claim 7: Jackson discloses a smaller diameter portion (fig 3).

As to claim 8: Lewis discloses a tapered head (fig 2). The specification provides no detail as to what constitutes a "standard hand position", therefore the Jackson tapered portion is considered to be in a standard hand position.

As to claim 10: Lewis discloses a lacrosse shaft (fig 2). It would have been obvious to one of ordinary skill in the art to have made the shaft conform to the official regulations in order to permit the device to be used in official games.

As to claim 11: Lewis discloses a lacrosse head (fig 1).

As to claim 12: Lewis discloses a detachable head (fig 1,2). It is old to have a detachable head.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over the cited art above and further in view of Official Notice. Official Notice was taken in the prior action that the use of carbon fibers is well known in the art. It would have been obvious to one of ordinary skill in the art at the time of the invention to have employed carbon fibers with the graphite material in order to produce a structurally sound and safe device.

Claims 9, 13-15, 22-25,27-31, and 33-34 are rejected under 35 U.S.C. 103(a) as being unpatentable the cited art above and further in view of Plastidip. Plastidip discloses the use of a gripable coating for lacrosse handles (pg 1,2- arrow mark). It would have been obvious to one of ordinary skill in the art at the time of the invention to have employed the gripable coating of Plastidip with the apparatus in order to provide a shaft that will have a more secure grip to the player during play and increase player satisfaction.

As to claim 13 : See claim 9 rejection.

As to claims 14 and 15: The specification provides no unexpected or surprising results in coating portions of or all of the entire shaft. It would have been obvious to one of ordinary skill in the art to have any or all of the shaft coated based on cost and design considerations.

As to claim 22 : See claim 3 and 9 rejections.

As to claim 23 : See claim 9 rejection. The use of a rubber coating would naturally give the shaft a low coefficient of conductivity.

As to claim 24 : See claim 3 and 9 rejections.

As to claim 25 : See claim 15 rejection.

As to claims 27 and 28 : See claim 4 and 9 rejections.

As to claim 29 : See claim 1 rejection. With as much structure as claimed, the shaft of Lewis has a flared end:

As to claim 30 : See claim 2 and 9 rejections.

As to claim 31 : See claim 9 rejection.

As to claim 33 : See claim 15 rejection.

As to claim 34 : See claim 23 rejection.

Also,

Claims 1-4,6-15, and 22-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lewis (4739994) in view of Von Floton (0391994). Lewis discloses the elements of claim 1, however it fails to clearly disclose the use of a tapered portion below the head. Von Floton discloses the use of a tapered portion is old in the shaft art (fig 4). It would have been obvious to one of ordinary skill in the art at the time of the invention to

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have employed the tapered portion of Von Floton with the apparatus of Lewis in order to provide a lighter lacrosse head.

As to claim 2: Von Floton discloses a tapered head (fig 3).

As to claim 3: Von Floton discloses a second outwardly tapered head (fig 3). The specification provides no unexpected or surprising results in using a second taper. It would have been obvious to one of ordinary skill in the art to have included a second taper in order to permit the handle to be easily reused if the first taper is damaged.

As to claim 4: Lewis discloses an octagonal shape (fig 3). The specification provides no unexpected or surprising results in using a non-protruding octagon cross-sectional shape. This is considered a design choice.

As to claim 6: Lewis discloses graphite (4:42-45).

As to claim 7: Von Floton discloses a smaller diameter portion (fig 3).

As to claim 8: Lewis discloses a tapered head (fig 2). The specification provides no detail as to what constitutes a "standard hand position", therefore the Jackson tapered portion is considered to be in a standard hand position.

As to claim 10: Lewis discloses a lacrosse shaft (fig 2). It would have been obvious to one of ordinary skill in the art to have made the shaft conform to the official regulations in order to permit the device to be used in official games.

As to claim 11: Lewis discloses a lacrosse head (fig 1).

As to claim 12: Lewis discloses a detachable head (fig 1,2). It is old to have a detachable head.

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Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over the cited art above and further in view of Official Notice. Official Notice was taken in the prior action that the use of carbon fibers is well known in the art. It would have been obvious to one of ordinary skill in the art at the time of the invention to have employed carbon fibers with the graphite material in order to produce a structurally sound and safe device.

Claims 9, 13-15, 22-25, 27-31, and 33-34 are rejected under 35 U.S.C. 103(a) as being unpatentable the cited art above and further in view of Plastidip. Plastidip discloses the use of a gripable coating for lacrosse handles (pg 1,2- arrow mark). It would have been obvious to one of ordinary skill in the art at the time of the invention to have employed the gripable coating of Plastidip with the apparatus in order to provide a shaft that will have a more secure grip to the player during play and increase player satisfaction.

As to claim 13 : See claim 9 rejection.

As to claims 14 and 15: The specification provides no unexpected or surprising results in coating portions of or all of the entire shaft. It would have been obvious to one of ordinary skill in the art to have any or all of the shaft coated based on cost and design considerations.

As to claim 22 : See claim 3 and 9 rejections.

As to claim 23 : See claim 9 rejection. The use of a rubber coating would naturally give the shaft a low coefficient of conductivity.

As to claim 24 : See claim 3 and 9 rejections.

As to claim 25 : See claim 15 rejection.

As to claims 27 and 28 : See claim 4 and 9 rejections.

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As to claim 29 : See claim 1 rejection. With as much structure as claimed, the shaft of Lewis has a flared end.

As to claim 30 : See claim 2 and 9 rejections.

As to claim 31 : See claim 9 rejection.

As to claim 33 : See claim 15 rejection.

As to claim 34 : See claim 23 rejection.

Response to Arguments

Applicant's arguments with respect to claims 1-15,22-25,27-31,33,34 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mike Chambers whose telephone number is (571) 272-4407. The examiner can normally be reached on Mon-Fri 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Kim can be reached on (571) 272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

0391994*545022*RE19731*2050554*2250441*176 Michael Chambers
09*5074555*5665010*6017279*6805642 Examiner

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March 23, 2006



EUGENE KIM
SUPERVISORY PATENT EXAMINER